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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,891	06/20/2003	Glynn Alan Spangenberg	030266	5908
23696 7590 03/09/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER AKINTOLA, OLABODE	
			ART UNIT	PAPER NUMBER
			3691	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/09/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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us-docketing@qualcomm.com
kaskanla@qualcomm.com
t_ssadik@qualcomm.com

Office Action Summary

Application No.

10/600,891

Applicant(s)

SPANGENBERG ET AL.

Examiner

Olabode Akintola

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to the amendment received 11/03/2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sellers et al (US 5311438) in view of Chene et al (US 6587768).

Re claims 1-32: Sellers teaches a method for measuring a benefit of a business improvement comprising operations of: automatically receiving actual performance information detected by at least one vehicle sensor (abstract, Fig. 83, col. 77, lines 61-65, col. 78, line 55 thru col. 79, line 13); storing the actual performance information in a storage device (fig. 1B (108), col. 3, lines

14-36, col. 177, lines 24-35); retrieving the actual performance information (col. 78, line 55 thru col. 79, line 13); and calculating the benefit of implementing the business improvement by determining a financial ration comparing the actual performance to estimated performance information (Fig. 83 (US0093), col. 77, lines 54-65, col. 78, line 55 thru col. 79, line 13).

Sellers does not explicitly teach vehicle using wireless communications. Chene teaches vehicles using wireless communication (abstract, col. 4, lines 41-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sellers to include this feature as taught by Chene. One would have been motivated to do this in order to transmit data directly from the vehicle to a remote location for analysis.

Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chene et al (US 6587768) in view of Carr (US 6968295).

Re claims 1-3, 5, 7-16, 18, 20-25, 27 and 29-32: Chene teaches a method, an apparatus and a machine readable executable instructions for measuring a benefit of a business improvement comprising operations of: automatically receiving, from a vehicle using wireless communications, actual performance information detected by at least one vehicle sensor (abstract, Figs, col. 1, lines 61-65, col. 4, lines 41-44); storing the actual performance information in a storage device (col. 2, lines 14-16); retrieving the actual performance information (co. 3, lines 11-15). Chene does not explicitly teach calculating the benefit of implementing the business improvement by determining a financial ration comparing the actual performance to estimated performance information. Carr teaches calculating the benefit of

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implementing the business improvement by determining a financial ratio comparing the actual performance to estimated performance information (col. 32, line 47 thru col. 33, line 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chen to include this feature. One would have been motivated to do this in order to estimate the ROI after the adjustment.

Re claim 4, 6, 17, 19, 26 and 28: Chene does not explicitly teach NPV and payback period.

Official notice is taken that these two parameters are notoriously old and well known in the art of financial analysis. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Chene and Carr to include NPV and payback period. One would have been motivated to do this as part of traditional financial calculation.

Response to Arguments

Applicant's arguments with respect to claims 1-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Summers (US 6408263) teaches traditional financial calculations (NPV, payback period and ROI) (col. 29, lines 63-67)

Tripathi teaches monitoring of vehicle health based on historical information (see figures)

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI
PRIMARY EXAMINER